dollars per centum per annum on all debts proved in the bankruptcy.

(8) Where a debt has been proved upon a debtor's estate and such debt includes interest or any pecuniary consideration in lieu of interest, such interest or consideration shall for the purposes of dividend be calculated at a rate not exceeding four per centum per annum, without prejudice to the right of a creditor to receive out of the estate any higher rate of interest to which he may be entitled after all the debts proved in the estate have been paid in full.

It is clear from the above provisions that the interest that should be paid to a creditor in the first instance is 4% per annum up to the date of the receiving order. Payment of the remainder of the agreed interest is postponed. When all the debts are paid in full, if there is a surplus, the creditor must be paid the postponed interest, that is, the difference between 4% and the rate to which he may be entitled under any agreement up to the date of the receiving order. After that, if there is a surplus, further interest is payable at the rate of 4% per annum from the date of the receiving order until the date of payment. With regard to this interest payable by the Official Assignee to a creditor subsequent to the receiving order under sub-section (7), it must be emphasised that the interest is payable on "all debts proved in the bankruptcy". The debt proved in the bankruptcy cannot be limited to the amount of the principal but must include the whole amount of the agreed interest calculated up to the date of the receiving order. See *Loh Ngai Poh a bankrupt No. 1. Ex parte Yap Tai Chee and Hoh Sum Chee,*[3] and *In Re A Debtor. Ex parte The Official Receiver and Trustee* v. *United Auto and Finance Corpn.*[4]

In the present case the bank claimed in its first proof the balance due on the judgment plus interest at 6% per annum up to the date of the receiving order. The Official Assignee should have reduced the interest from 6% to the statutory rate of 4% allowed under section 43(8). He did not do so because on the day he adjudicated upon this proof there were sufficient funds in this bankruptcy to pay all the debts in full, together with interest. The Official Assignee therefore allowed the claim for interest at 6% per annum. The Official Assignee rejected the claim of $4,360 in respect of a bill of costs. This claim was rightly rejected and the bank has no quarrel with this rejection. There is therefore no complaint as regards the Official Assignee's adjudication on the first proof of debt.

Under the second proof of debt the bank in my view is clearly entitled to claim the postponed interest, being the difference between 6% per annum and the agreed rate of 75 cents per $100 per mensem up to the date of the receiving order. After that the bank is entitled under section 43(7) to further interest at the rate of 4% per annum on "the debt proved in the bankruptcy" and the bank's debt proved in this bankruptcy is the balance of the amount due on the judgment together with interest at 75 cents per $100 per mensem up to the date of the receiving order. Under the circumstances, in addition to the payment of $129,786.01 on the first proof of debt the Official Assignee must pay to the bank in respect of its claim on the second proof:—

(a) The difference between interest calculated at 6% per annum and interest calculated at 75 cents per $100 per mensem on the balance of the amount due on the judgment up to the date of the receiving order.

(b) Further interest at 4% per annum from the date of the receiving order up to 16th March 1963 (the date on which the bank was repaid $140,308.84 being proceeds of sale of the Chatsworth Park property) on the total of the balance of the amount due on the judgment and the interest on the balance calculated at 75 cents per $100 per mensem up to the date of the receiving order.

(c) Further interest at 4% per annum from 17th March 1963 to 5th April 1963 (the date of which the bank was repaid $147,571.50 being proceeds of sale of the Siglap property) on the total of the balance of the amount due on the judgment and the interest on the balance calculated at 75 cents per $100 per mensem up to the date of the receiving order less $140,308.84.

(d) Further interest at 4% per annum from 6th April 1963 up to the date of payment by the Official Assignee on the total of the balance of the amount due on the judgment and the interest on the balance calculated at 75 cents per $100 per mensem up the date of the receiving order less $287,880.34.

For the above reasons I order that the Official Assignee pay to the bank the sums mentioned in (a), (b), (c) and (d) above and costs of the motion to be taxed.

Order accordingly.

Solicitors: *Donaldson & Burkinshaw.*

PUBLIC PROSECUTOR v. YUSOFF

[R.Cr.J. (Hashim J.) May 2, 1964]

[Kota Bharu — Criminal Revision No. 6 of 1964]

Offensive weapon — Keris — Possession of — When lawful — Corrosive and Explosive Substances and Offensive Weapons Ordinance, 1958, s. 6(1).

Criminal Procedure — Charge of a technical nature — Duty of magistrate — Criminal Procedure Code (Cap. 6), s. 173.

A charge under section 6(1) of the Corrosive and Explosive Substances and Offensive Weapons Ordinance, 1958, is of a technical nature and where the accused is not represented by counsel it is the duty of the trial magistrate to satisfy himself that the accused understands the technical nature of the charge before accepting his plea.

A keris forms part of a bridegroom's (Malay) regalia at a "bersanding" ceremony and it is lawful for the lender of a keris for such a ceremony to carry it home when it is returned to him.

CRIMINAL REVISION.

Tengku Ahmad Rithauddeen (Deputy Public Prosecutor) for the Public Prosecutor.

Wan Mustapha bin Haji Ali for the accused.

Hashim J.: I called for the record of this case.

The accused was charged for being found in possession of a "keris", an offence punishable under section 6(1) of the Corrosive and Explosive Substances and Offensive Weapons Ordinance No. 43 of 1958. He pleaded guilty and the learned magistrate bound him over in the sum of $500 with one surety for one year under section 173A of the Criminal Procedure Code (Cap. 6). There is nothing in the record to show what the "finding" of the magistrate was under section 173(b) of the Criminal Procedure Code (Cap. 6). In this case as the magistrate elected to act under the provisions of section 173A of the Criminal Procedure Code (Cap. 6) he should have recorded that the charge was proved.

The facts in this case are that a police party saw the accused walking along the main road at Kampong Padang Tok Mat, Ketereh at 9.15 p.m. on 9th February, 1964. Accused was stopped, searched and the keris was found stuck in his waist. The magistrate was informed in court by the accused that the keris had been borrowed from him by a friend for a marriage ceremony. It was returned to him that night and he was taking it home when the police party stopped him. It should be noted that a charge under section 6 (1) of Ordinance No. 43 of 1958 is of a technical nature and where the accused is not represented by counsel it is the duty of the trial magistrate to satisfy himself that the accused understands the technical nature of the charge before accepting his plea. Section 6(1) states *inter alia* "otherwise than with lawful authority or for a lawful purpose" and section 6(2) of the Ordinance states that the onus of proving the existence of a lawful purpose shall lie upon the accused. In my opinion the accused in this case made a qualified plea of guilty and the magistrate should not have accepted his plea. He should have proceeded with the hearing of the case and allowed the accused to prove the lawful purpose of carrying a keris. In my opinion it was lawful for the accused to carry his keris home if he had lent it to a friend for use in a marriage ceremony. It is a well-known fact that the keris forms part of the bridegroom's regalia at a "bersanding" ceremony.

In exercise of my powers of revision I quash the sentence imposed by the trial magistrate and the accused is discharged from the charge, such discharge not amounting to an acquittal.

Sentence quashed.

Solicitors: *Wan Mustapha & Co.*

PUBLIC PROSECUTOR v. WAHAB

[R.Cr.J. (Hashim J.) May 2, 1964]

[Kota Bharu — Criminal Revision No. 9 of 1964]

Criminal Procedure — Whipping — Criminal Procedure Code (Cap. 6), s. 293(i)(c).

Offensive weapon — Possession of — "Liable to imprisonment and to whipping" — Whether imprisonment mandatory — Corrosive and Explosive Substances and Offensive Weapons Ordinance, 1958, s. 6(1).

A magistrate should clear the court-house before a sentence of whipping is imposed. The accused should first be examined by a medical officer to find out whether he is fit to be whipped. Then the whipping should be done in the magistrate's presence in a closed court-house. There should be present only the magistrate, the accused and the person who is going to execute the order of whipping and if necessary the medical officer.

It is wrong to order whipping under section 293 (i)(c) of the Criminal Procedure Code of an accused person of 19 years of age.

The provision in section 6(1) of the Corrosive and Explosive Substances and Offensive Weapons Ordinance that on conviction an accused shall be liable to imprisonment for a term not exceeding two years and to whipping is not mandatory and a fine may be imposed in lieu of imprisonment.

CRIMINAL REVISION.

Tengku Ahmad Rithauddeen (Deputy Public Prosecutor) for the Public Prosecutor.

Respondent in person.

Hashim J.: I called for the record of this case.

The accused was charged under section 6(1)(a) of the Corrosive and Explosive Substances and Offensive Weapons Ordinance No. 43 of 1958. Incidentally there is no such section as section 6(1)(a) in Ordinance No. 43 of 1958. There is section 6(1) which deals with carrying offensive weapons in public places and section 6A(1) which deals with offences relating to scheduled weapons. In this case the accused was charged with possession of a "pisau jam", presumably a kind of knife. I do not think a "pisau jam" is a "flick knife" or a "gravity knife" and therefore the appropriate section should be section 6(1) of the Ordinance. He pleaded guilty to the charge. The learned magistrate accepted the plea of guilty and ordered that accused be whipped with 4 strokes of a light rattan. This presumably was done in the magistrate's presence in court. Incidentally a magistrate should clear the court-house before sentence of whipping is imposed. The accused should first be examined by a medical officer to find out whether the accused is fit to be